

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEVIN D. SMITH,

No. 2:21-cv-0439 CKD P

Petitioner,

13 || v.

## ORDER AND

## SACRAMENTO COUNTY,

## FINDINGS AND RECOMMENDATIONS

## Respondents.

Petitioner is a Sacramento County Jail prisoner proceeding pro se. On May 17, 2021, his petition for a writ of habeas corpus was dismissed with leave to amend within 30 days. The 30-day period has expired and petitioner has not responded to the court's order May 17, 2021 order.

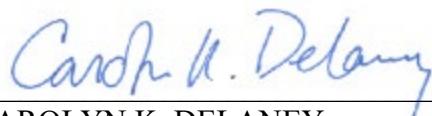
Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district court judge to this case; and

IT IS HEREBY RECOMMENDED that this case be closed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner may address whether a certificate of appealability should issue in the event he files an appeal of the judgment in this

1 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or  
2 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as  
3 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability “should  
4 issue if the prisoner can show: (1) ‘that jurists of reason would find it debatable whether the  
5 district court was correct in its procedural ruling;’ and (2) ‘that jurists of reason would find it  
6 debatable whether the petition states a valid claim of the denial of a constitutional right.’” Morris  
7 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484  
8 (2000)). Petitioner is advised that failure to file objections within the specified time may waive  
9 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: June 29, 2021



11 CAROLYN K. DELANEY  
12 UNITED STATES MAGISTRATE JUDGE

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